

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SK'S COSMETIC BOUTIQUE, INC. and
SUSAN KEANE,

Plaintiffs,

v.

J.R SILVERBERG REALTY, LLC and THE
ESTATE OF JEROLL SILVERBERG,
Defendants.

ORDER

20 CV 2035 (VB)

-----X
On April 21, 2020, defendants filed a motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(2), 12(b)(5), and 12(b)(6). (Doc. #7).

Accordingly, it is hereby ORDERED that, by no later than May 4, 2020, plaintiffs must notify the Court by letter whether (i) they intend to file an amended complaint in response to the motion to dismiss, or (ii) they will rely on the complaint that is the subject of the motion to dismiss.

If plaintiffs elect not to file an amended complaint, the motion will proceed in the regular course, and the Court is unlikely to grant plaintiffs a further opportunity to amend to address the purported deficiencies made apparent by the fully briefed arguments in defendants' motion. See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility"); accord F5 Capital v. Pappas, 856 F.3d 61, 89–90 (2d Cir. 2017). The time to file opposing and reply papers shall be governed by the Federal Rules of Civil Procedure and the Local Civil Rules, unless otherwise ordered by the Court.

If plaintiffs elect to file an amended complaint, plaintiffs must file the amended complaint by no later than 14 days after notifying the Court of their intent to do so. Within 21 days of such amendment, defendants may either (i) file an answer to the amended complaint, (ii) file a motion to dismiss the amended complaint, or (iii) notify the Court by letter that they are relying on the initially filed motion to dismiss.

Defendants shall serve a copy of this Order on plaintiffs by April 24, 2020, and file proof of service on the docket. Plaintiffs promptly shall enter their appearance on the docket.

The conference scheduled for April 29, 2020, is adjourned without date.

Dated: April 22, 2020
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge